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# SANITARY LEGISLATION.

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## COURT DECISIONS.

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### DISTRICT OF COLUMBIA COURT OF APPEALS.

#### **Health Department—Liability for Negligence of Employees—Acts Performed Outside of the Municipality.**

COATES V. DISTRICT OF COLUMBIA, 42 Washington Law Reporter, 248. Decided April 6, 1914.

A municipal corporation is not liable for damage caused by the negligence of employees of the health department in the performance of their duties, because those duties are of a public or governmental character, for the general public welfare.

The plaintiff, a farmer living and maintaining a dairy in the State of Maryland, sued the District of Columbia for damages which he alleged were caused by the negligence of employees of the District of Columbia health department. He had a license to sell milk to customers in the District of Columbia, and charged that under the rules and regulations of the health department of the District he "was compelled to submit to the disinfecting of the stable or barn on his said farm to be occupied by his herd of cows," and that owing to carelessness on the part of employees of the health department his herd of cattle was injured by mercurial poisoning.

No evidence was taken in the case, as it was argued on demurrer. The court decided that the District of Columbia was not liable, even if the plaintiff could prove that the injury was caused by the negligence of the employees of the health department, saying that in the cases cited a "distinction was noted between the two kinds of powers and duties with which municipal corporations are charged; the one merely municipal for special local purposes and benefits; the other of a public or governmental character for the general public welfare. For negligence in the performance of the former there is liability; for negligence of agents in the performance of the latter there is no liability. \* \* \* There is no occasion for further discussion of the general question.

"The duties imposed upon the health department of the District are to be considered public and governmental in their nature, and by the great weight of authority municipal corporations are not liable in damages for the negligent acts of the employees of such a department in the performance of their duties. \* \* \*

"There is, perhaps, another ground upon which the demurrer might be sustained without regard to the foregoing, but as it has not been presented or argued we will merely suggest the point without deciding it. The dairy where the acts complained of were committed is in the State of Maryland. Officers of the District of Columbia are without power beyond its boundaries, and if they undertake to exercise it the District could not be held liable for their acts. We are advised of no act of Congress that attempts even to authorize their exercise of the power of disinfection of a dairy beyond the boundary, even if such power could be conferred."